National Labor Relations Board Weekly Summary



of NLRB Cases

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Chicago Regional Council of Carpenters (30-CD-170; 354 NLRB No. 73) Hartland, WI, Aug. 31, 2009. This case involved a jurisdictional dispute concerning fireproofing work at the St. Catherine's Hospital jobsite in Pleasant Prairie, WI. The Board found that there was reasonable cause to believe that Section 8(b)(4)(D) of the Act had been violated, there were competing claims to the work in dispute, and there was no agreed-upon method for voluntary adjustment of the dispute to which all parties were bound. The Board awarded the work in dispute to employees represented by the Chicago Regional Council of Carpenters, rather than to employees represented by Operative Plasterers' and Cement Masons' International Association of America, Local 599, based on the factors of employer preference, employer practice, and job loss. The Board found that only two factors, area practice and collective-bargaining agreements, favored an award of the work to Plasterers-represented employees, and the latter factor favored Plasterers only slightly. [HTML] [PDF]

The Board found that, under well-settled precedent, the factor of employer preference, which favored an award of the work to the Carpenters-represented employees here, was entitled to substantial weight. It distinguished cases in which the Board, under unusual circumstances, declined to accord substantial weight to employer preference.

(Chairman Liebman and Member Schaumber participated.)

Coastal Insulation Corp., and Elmsford Insulation Corp., and Sealrite Insulation of New York, a single employer (22-CA-28439; 354 NLRB No. 70) East Windsor, NJ, Aug. 31, 2009. The Board adopted the administrative law judge's finding that the Respondent violated Section 8(a)(1) of the Act when it discharged a group of its insulation installers, after they complained about wage payment issues. The judge found that the installers engaged in concerted protected activity when they held a meeting to discuss their common grievances about the operation, application, and implementation of the Respondent's new pay system and ultimately to prepare a petition of their concerns and present it to management. The judge found no merit to the Respondent's contention that the installers were attempting to dictate the terms of their employment to the Respondent by attempting to change the Respondent's pay scale. The judge credited evidence that the Respondent terminated the installers following their meeting to discuss the Respondent's new pay system. [HTML] [PDF]

(Chairman Liebman and Member Schaumber participated.)

Charge filed by Sergio Santos (an Individual); complaint alleged violations of Section (8)(a)(1). Hearing at Newark, Nov. 24-25 and Dec.16-17, 2008. Adm. Law Judge Earl E. Shamwell issued his decision April 2, 2009.

Regency Grande Nursing and Rehabilitation Center (22-CA-28331, et al., 22-RC-12889, et al.; 354 NLRB No. 75) Dover, NJ, Sept. 3, 2009. The Board adopted, with minor modifications to the rationales, the administrative law judge's findings that the Respondent violated Section 8(a)(3) and (1) of the Act by discharging an employee because of her union activity, and Section 8(a)(1) by interrogating an employee about why she met with a union organizer in the home of another employee, creating the impression of surveillance by this same question, and interrogating an employee as to how she voted in the representation election. The Board also found that the judge properly overruled objections to the election and sustained all but six challenges, a non-determinative number, and issued a certification of representative. Finally, the Board adopted, with bolstering, the judge's recommended broad cease and desist order. [HTML] [PDF]

(Chairman Liebman and Member Schaumber participated.)

Charges filed by SEIU 1199 New Jersey Health Care Union; complaint alleged violation of Section 8(a)(1) and (3). Hearing at Dover, Sept. 25-26, 29 and Oct. 6, 2008. Adm. Law Judge Michael A. Rosas issued his decision Feb. 13, 2009.

Sequoias Portola Valley (20-RC-18240; 354 NLRB No. 74) Portola Valley, CA, Aug. 31, 2009. The Board reversed the Regional Director's decision to hold a representation petition in abeyance pending the investigation of an unfair labor practice charge filed by a union other than the Petitioner against an employer other than the Employer in this case. The Board found that allowing an unrelated employer-domination charge to block the representation petition, before any such determination has been made with respect to either the Petitioner or current Employer, delays, for an indeterminate, and possibly lengthy amount of time, the employees' opportunity to exercise their Section 7 rights. The Board noted that if the Petitioner is found, at a later date, not to be a labor organization under the Act and it shall have been certified as the unit employees' bargaining representative, the Board shall take such action as required, such as the revocation of the Petitioner's certification. [HTML] [PDF]

Accordingly, the petition was reinstated, and the case remanded to the Regional Director for further processing.

(Chairman Liebman and Member Schaumber participated.)

DECISIONS OF ADMINISTRATIVE LAW JUDGES

ABB, Inc. ([UAW] Local 2379) Jefferson City, MO, Sept. 4, 2009, 14-CA-29219, JD(ATL)-17-09, Judge William N. Cates

Operating Engineers Local 513 (Ozark Constructors, LLC) St. Louis, MO, Sept. 4, 2009, 14-CB-10424, JD-41-09, Judge Michael A. Rosas

Aramark Services, Inc. (UNITE-HERE Local 100) Long Island City, NY, Sept. 4, 2009, 29-CA-28625, JD(NY)-32-09, Judge Raymond P. Green

The Imperial Buffet & Restaurant, Inc. d/b/a Majestic Restaurant & Buffet and Majestic Buffet, Inc. and New Majestic, Inc. (an Individual) Wayne, NJ, Sept. 4, 2009, 22-CA-27468, JD(NY)-31-09, Judge Steven Fish

UNPUBLISHED BOARD DECISIONS AND ORDERS IN REPRSENTATION CASES

(In the following case, the Board considered exceptions to Report of Hearing Officer)

DECISION AND CERTIFICATION OF RESULTS OF ELECTION

Scripps Health d/b/a Scripps Memorial Hospital Encinitas, Encinitas, CA, 21-RD-2841, Aug. 31, 2009 (Chairman Liebman and Member Schaumber)

(In the following case, the Board adopted Report of Hearing Officer in the absence of exceptions)

DECISION AND CERTIFICATION OF REPRESENTATIVE

Tully Construction Co., Inc., Flushing, NY, 29-RC-11706, Aug. 31, 2009

(In the following case, the Board denied Request for review of Decision and Direction of Election (D&DE) of Regional Director)

American Medical Response of Connecticut, Inc., Waterbury, CT, 34-RC-2322, Sept. 3, 2009 (Chairman Liebman and Member Schaumber)

(Miscellaneous Board Decision and Order)

DECISION ON REVIEW AND ORDER [reinstating petition and remanding to Regional Director for further appropriate action]

Hospital Housekeeping Systems, Los Alamitos, CA, 21-RC-21126, Aug. 31, 2009 (Chairman Liebman and Member Schaumber)
